

BEFORE THE

Federal Communications Commission

WASHINGTON, DC 20554

In the Matter of

**Revision of the Commission's Rules
to Ensure Compatibility with Enhanced
911 Emergency Calling Systems**

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CC Docket No. 94-102

To: The Commission

WAIVER REQUEST OF SNC TELECOMMUNICATIONS, LLC

SNC Telecommunications, LLC ("SNC"), pursuant to Section 1.3 and 1.925 of the Commission's Rules¹ and by its attorneys, hereby submits the following request for waiver of the Phase II enhanced 911 ("E911") obligations under Section 20.18(g) of the Commission's rules to the extent such a waiver may be necessary. Section 20.18(g) of the Commission's Rules establishes milestones for the implementation of handset-based location technologies. SNC has not received a request from the Public Safety Answering Point ("PSAP") in the Alaska region, and due to the difficult circumstances of providing cellular service in Alaska and the technological difficulties in commercial deployment of automatic location devices, as well as the limited scope of SNC's analog facilities, SNC hereby submits that a grant of this request would serve the public interest.

¹ See 47 C.F.R. §§ 1.3 and 1.925.

I. BACKGROUND

SNC is the licensee for station WPOI 466, serving Market CMA315-A, RSA Alaska 1 – Wade Hampton (“Alaska RSA #1”). The Alaska RSA #1 is composed of largely rural and isolated communities within Market CMA315-A. The WPOI 466 licensed facility consists of one site located at Nome, Alaska. On March 19, 2001, SNC filed a report with the Commission outlining its plan to achieve compliance with the Commission’s E911 requirements.² In its report, SNC stated that, due to the current configuration (single site) of its cellular facility, it could only employ handset-based location technology. Additionally, SNC advised the Commission that it would utilize the uPD77533 signal processor, manufactured by NEC and scheduled for commercial availability in October 2001, as the basis of its E911 location capabilities.

II. WAIVER IS WARRANTED UNDER THE CIRCUMSTANCES.

Under Sections 1.925(b)(3)(i) and (ii) of the Commission’s Rules, the standard for grant of a waiver is that the “underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest” or would be “inequitable, unduly burdensome . . . or the applicant has no reasonable alternative.”³ Applying the FCC’s Rules to SNC’s case would not only frustrate the purpose of the Rules, but also clearly would not be in the public interest.

² See Report on Implementation of Wireless E911 Phase II Automatic Location Identification by SNC/UNAT, LLC of March 19, 2001.

³ 47 C.F.R. §1.925(b)(3)(i), (ii).

A. The Commission's E911 Implementation Rules Support a Waiver in the Instant Case.

The Commission, in undertaking the E911 proceeding, recognized the inherent uncertainty in achieving location transmission technology under the timetables it established.⁴ In recognizing this limitation, the Commission provided for waivers, where appropriate, to allow for carriers facing difficulties in deployment to request an alteration of the timetable to allow for more time in which to conform to the E911 requirements.⁵

The Commission established a standard for requests for waivers of the E911 Phase II rules in its *E911 Fourth Memorandum Opinion and Order* to allow carriers to request relief of the implementation requirements to the extent necessary, but document efforts made to comply with the rules as closely as possible.⁶ Specifically, the Commission recognized the possible presence of "technology-related issues or exceptional circumstances" that would meet the Commission's standard for grant of a waiver.⁷ SNC's factual circumstances, as outlined below, meet the Commission's standards for waiver request.

1. A Network-Based E911 Phase II Solution is Not Feasible.

SNC has one call sign, WPOI 466, which has one site associated with it. For a network-based E911 solution to be viable, the licensee will need at least three sites on its network to achieve the required triangulation for network-based location technology. Due to the

⁴ See *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems: Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 18676, 18703-14 (1996) ("R&O").

⁵ See R&O at 18710-11.

⁶ See *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442 (2000) ("Fourth MO&O")

⁷ Fourth MO&O, at 17457.

small number of users in the Alaska RSA #1, and the fact that only one site exists for WPOI 466, a network-based Phase II solution is not feasible for SNC. SNC therefore will use only handset-based solutions to fulfill its location information requirements.

2. SNC Cannot Feasibly Meet the Commission's E911 Phase II Handset-Based Location Technology Implementation Schedule.

As SNC apprised the Commission in its Report on E911 Phase II Implementation of March 9, 2001, SNC has based its location technology on the availability of a wireless location device that will utilize Global Positioning System (GPS) to provide handset-based location information to fulfill the Commission's requirements. The wireless location device is the uPD77533 signal processor, developed jointly by NEC and SnapTrack. As originally planned by NEC/SnapTrack, volume production of uPD77533 was to begin in October 2001. However, the planned production of the processor has fallen behind schedule, and SNC has no indication of when volume production will begin.

SNC is dependent upon NEC/SnapTrack's development of the uPD77533 device in order to realize location technology in its handsets. Until this signal processor becomes available, SNC will be unable to implement its Commission E911 milestones.

3. The Commission has Established a Deadline of November 30, 2001 for Carriers Such as SNC to Seek a Waiver of the Commission's Implementation Schedule.

By Public Notice on October 12, 2001, the Commission established a schedule for small and mid-sized carriers to request waiver of the deadlines established in Section 20.18(f) and (g) of the Commission's rules.⁸ The Public Notice was intended to "clarify the waiver filing

⁸ See *Commission Establishes Schedule for E911 Phase II Requests by Small and Mid-Sized Wireless Carriers*, Public Notice, FCC 01-302 (rel. October 12, 2001).

obligations of the carriers who have not filed to date and grant them limited additional time within which to file, if necessary.”⁹ Under the new requirements, small and mid-sized carriers must file a waiver petition with the Commission by November 30, 2001. By extending the period for filing those petition, the Commission has recognized the difficult situation faced by small carriers such as SNC.

B. SNC Seeks a Nine Month Extension for All Deadlines Except for the Final Penetration Deadline of 95% by December 31, 2005.

As required by the Commission’s Public Notice of October 19, 2001, SNC proposes an implementation plan that includes “specific, enforceable milestones for Phase II implementation.”¹⁰ SNC requests a deferral of nine months on all milestones for penetration, except for the final 95% penetration by December 31, 2005 as required by Section 20.18(g)(1)(v).¹¹ This proposed solution will allow time for the developers of handset-based location technology, including NEC/SnapTrack, to provide accurate, dependable location technology chips for handsets carried by SNC. Under SNC’s proposed schedule, all milestones will remain “specific” and “enforceable” as required by the Commission, but will be set back nine months in order to allow the promised technology to be implemented by industry leaders. This nine-month deferral is not a complete waiver or abnegation of SNC responsibilities under the Commission’s rules. It is merely a deferral that will allow additional time to fully comply with the Commission’s deployment requirements.

⁹ *Id.* at 1.

¹⁰ *Wireless Telecommunications Bureau Provides Guidance on Filings by Small and Mid-Sized Carriers Seeking Relief From Wireless E911 Phase II Automatic Location Identification Rules*, Public Notice, DA 01-2459 (rel. October 19, 2001).

¹¹ *See* 47 C.F.R. §20.18(g)(1)(v).

C. A Waiver is in the Public's Interest.

The waiver sought by SNC serves the public interest for several reasons. First, the waiver will allow SNC limited additional time to implement sound, properly-tested location technology in its handsets, instead of a short-term and potentially faulty and costly solution . Additionally, SNC is not requesting a blanket waiver of the Commission's E911 Phase II requirements, but seeks a waiver to allow for an extended schedule of the intermediate milestones in order to allow for commercial availability of the technology needed to implement Phase II location requirements. Finally, the events that have given rise to this waiver request spring from the current state of technology regarding location information, which is beyond SNC's control. A waiver under these circumstances will allow all parties to work amicably together to seek a solution, benefiting public safety.

III. CONCLUSION.

SNC can neither technically nor economically implement the Commission's E911 requirements by the deadlines given in Section 20.18 of the Commission's rules. A nine-month deferral of each of the penetration and manufacturing milestones for handset-based solutions will allow for additional time for developers of handset-based location technology to deliver such technology to SNC for inclusion in handsets.

As required by the Commission, SNC has outlined reasons that are "specific, focused and limited in scope, with a clear path to full compliance."¹² Deferral of the implementation

¹² *Id.* at 1.

deadlines as they apply to SNC will serve the public interest, allowing time for manufacturers to deliver handset-based location technology to carriers such as SNC.

Respectfully submitted,

SNC TELECOMMUNICATIONS, LLC

By: 
Michael F. Morrone

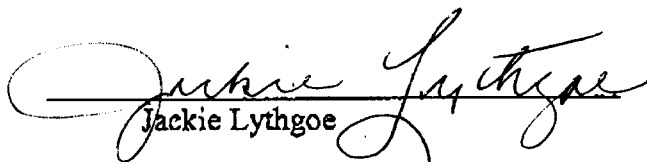
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Date: November 26, 2001

DECLARATION OF JACQUELINE LYTHGOE

I, Jacqueline Lythgoe, Executive Vice President of SNC Telecommunications, LLC, do hereby declare under penalty of perjury that I have read the foregoing Petition for Waiver and that the facts stated therein are true and correct, to the best of my knowledge, information and belief.


Jackie Lythgoe

Dated: November 26, 2001

CERTIFICATE OF SERVICE

I, Cassandra Hall, of Keller and Heckman LLP, 1001 G Street, NW, Suite 500 West, Washington DC 20001, do hereby certify that a copy of the foregoing "Petition for Waiver" was served on this 29th day of November, 2001, via hand delivery or first class, U.S. Mail, postage prepaid to the following parties:


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